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*Kevin L. Smith*

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tax court

ATTORNEYS FOR APPELLEE:

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**IN THE  
COURT OF APPEALS OF INDIANA**

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No. 02A05-0711-CR-606

APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable Marcia L. Linsky, Magistrate  
Cause No. 02D04-0703-CM-1678

**April 24, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Chief Judge**

Appellant-defendant Teresa J. Jackson appeals her conviction for Battery,<sup>1</sup> a class A misdemeanor, challenging the sufficiency of the evidence. Specifically, Jackson argues that her conviction must be reversed because the testimony that was admitted at trial was “improbable” and should be “discredited under the incredible dubiousity rule.” Appellant’s Br. p. 5. Finding no error, we affirm the judgment of the trial court.

### FACTS

On December 16, 2006, Jackson’s children became involved in a neighborhood fight in Fort Wayne with the younger siblings of fourteen-year-old M.C. After M.C. was told about the fight, she ran outside and began fighting with Jackson’s fifteen-year-old daughter, who was “beating up” M.C.’s twelve-year-old sister. Tr. p. 8-11. At some point, Jackson joined in the fight and punched M.C. in the left eye.

Courtland Clancy, the live-in boyfriend of M.C.’s mother, broke up the fight and pulled Jackson away from M.C. M.C.’s eye started to swell and she had a bruise under her eye. When M.C.’s mother, Jennifer Buxton, arrived home, she went over to Jackson’s residence and confronted her about hitting M.C. Jackson admitted to Buxton that she had hit M.C. because M.C. was “in [her] face.” Id. at 32.

Following the incident, Jackson was charged with battery. At a bench trial that commenced on September 11, 2007, M.C. testified that Jackson punched her in the eye. Clancy testified that he saw Jackson hit M.C. more than once, and Buxton testified that

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<sup>1</sup> Ind. Code § 35-42-2-1.

Jackson admitted striking M.C. Following the presentation of the evidence, Jackson was found guilty as charged. The trial court sentenced Jackson to 365 days of incarceration with all time suspended on the condition that she undergo anger management counseling. Jackson now appeals.

### DISCUSSION AND DECISION

In reviewing Jackson's challenge to the sufficiency of the evidence, we do not reweigh the evidence or assess the credibility of witnesses. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). We consider only the evidence favorable to the verdict and all reasonable inferences therefrom. Id. This court will affirm the conviction unless "no rational fact-finder" could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000). Moreover, the uncorroborated testimony of the victim is sufficient to support a conviction. Craun v. State, 762 N.E.2d 230, 239 (Ind. Ct. App. 2002).

We also note that it is the fact-finder's responsibility to decide who to believe or disbelieve. Cohen v. State, 714 N.E.2d 1168, 1179 (Ind. Ct. App. 1999). The only time that we will invade the fact-finder's province to weigh evidence and judge witness credibility is in the "rare case" where the testimony is so inherently incredible or improbable that it "runs counter to human experience" and "no reasonable person could believe it." Edwards v. State, 753 N.E.2d 618, 622 (Ind. 2001). Application of this "incredible dubiousity" rule is "limited to cases where a sole witness presents inherently contradictory testimony which is equivocal or the result of coercion and there is a

complete lack of circumstantial evidence of the defendant's guilt." Majors v. State, 748 N.E.2d 365, 367 (Ind. 2001).

To convict Jackson of battery, the State was required to prove that she: 1) knowingly or intentionally; 2) touched another person in a rude, angry, or insolent manner; 3) that resulted in bodily injury. Ind. Code § 35-42-2-1(a)(1). Bodily injury is defined as "any impairment of physical condition." I.C. § 35-41-1-4.

As noted above, M.C. testified at trial that Jackson "punched" her in the left eye and it became swollen. Tr. p. 12-13. Clancy also observed that he saw Jackson hit M.C. a number of times and that M.C. had some "marks" on her. Id. at 21, 26, 28. Finally, Buxton testified that when she confronted Jackson about hitting M.C., Jackson admitted doing so because M.C. was "in [her] face." Id. at 30-33. Buxton also testified that there was a bruise under M.C.'s eye, which turned a little black. Id. at 30-33.

In light of the above testimony, the State demonstrated that Jackson was guilty of battery beyond a reasonable doubt. Moreover, the incredible dubiousity rule is inapplicable here because, as discussed above, more than one witness testified at trial against Jackson. And there is nothing inherently improbable about the testimony that Jackson punched M.C. In essence, Jackson's arguments amount to a request that we reweigh the evidence—a practice in which we do not engage when evaluating the sufficiency of the evidence supporting a conviction. Thus, we decline to set aside Jackson's conviction.

The judgment of the trial court is affirmed.

RILEY, J., and ROBB, J., concur.